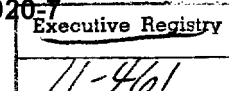




DEPARTMENT OF STATE
WASHINGTON



17 Jan 59 AWD/Fmc

January 14, 1959

MEMORANDUM

FOR: The Honorable
Allen W. Dulles
Director,
Central Intelligence Agency

FROM: John A. Calhoun
Director,
Executive Secretariat

Enclosed for your information and files are copies of
the Soviet note on Berlin and the Soviet draft peace treaty
with Germany, both dated January 10, 1959.

STATE review(s) completed.

(EXECUTIVE REGISTRY FILE)

- 1 -

January 10, 1959
1/OSA

SOVIET NOTE TO THE US GOVERNMENT ON BERLIN

The Soviet Government deems it necessary to draw the attention of the U. S. Government to the utterly abnormal situation which has taken shape as a result of the delay in solving one of the most important international postwar problems, the conclusion of a peace treaty with Germany.

While peace treaties have long since been concluded with other states which took part in the World War II on Germany's side and they are developing on an independent national basis, the German people still have no peace treaty, which deprives them of a possibility to exercise their state sovereignty to the full and to become an equal member of the community of nations.

Moreover, foreign troops still remain on the territory of Germany and an occupation regime is still in force in some parts of Germany, as for instance in West Berlin.

As a result of procrastination in the peaceful settlement with Germany, many questions affecting the interests not only of Germany but also of the countries which took part in the war against Germany remain unsettled from year to year. The absence of a peace treaty with Germany seriously complicates the situation in Europe, gives rise to suspicion and mistrust in relations between states and hampers normalization of these relations.

It should also be pointed out that due to the absence of a peace treaty German militarism in West Germany is again rearing its head and gaining in strength. This cannot but worry the Soviet people as well as other European peoples on whom militarist Germany has repeatedly visited grave calamities and sufferings.

A peace treaty promoting the peaceful development of Germany would create the necessary conditions to make impossible a recurrence of the tragic events of the past when German militarists involved mankind in devastating wars entailing tremendous human and material losses.

Loyal to its

- 2 -

Loyal to its commitments regarding Germany and taking into consideration the lawful interests of the German and other European peoples, the Soviet Government repeatedly approached the Governments of the United States, Great Britain, and France in the postwar years with proposals to prepare and conclude a peace treaty with Germany. Unfortunately the Soviet proposals for a peaceful settlement with Germany were not favorably received by the western powers which, far from advancing their own proposals, did not want to discuss seriously this urgent problem. For many years they have been insisting that priority should be given to the so-called free all-German elections and that the question of the reunification of Germany should be tackled not by the Germans but by the four former occupation powers. This idea was the gist of the notes of the western powers dated September 30, 1958 to which an exhaustive answer was given in the notes of the Soviet Government on the Berlin issue dated November 27, 1958.

If instead of wishful thinking we face the truth as it is we shall have to admit that the restoration of the unity of Germany will have inevitably to pass through a number of stages of a rapprochement between the German Democratic Republic and the Federal German Republic. Now we can only wish to see the beginning of this process, whose success, however, depends on the efforts of both German states. To evade the preparation of a peace treaty with Germany is to strive for a situation wherein the German people will have neither a peace treaty nor a united national state.

This would mean to preserve the existing intolerable situation, creating a possibility for the Federal Republic of Germany to make efforts to impose on the German Democratic Republic an internal system after its own pattern. But in this case the German Democratic Republic would also have the right to raise the question of changing the order and regime existing in the Federal German Republic. It is quite clear that this would not help to achieve the national unity of Germany, but on the contrary, would further widen the gap between the two German states.

On the other hand, under the present conditions the conclusion of a peace treaty is precisely a measure which could, sooner than anything else, bring the German people closer to the solution of their basic national task, the reunification of the country. The definition

in a peace

- 3 -

in a peace treaty of the military status of Germany, as well as of the external conditions, the observance of which would open up clear prospects of the future of Germany before the German people and would, in many respects, make it easier for the Germans, living in two states with different social and economic systems, to search for ways and means of expanding contacts and establishing confidence between them. A peace treaty would provide a good basis for bringing closer together the two German states, for overcoming the deep differences which still block the way to the reunification of the country into a single whole.

It is only just to point out that since the Federal German Republic Government has taken a line toward remilitarization and has closely tied its policy with the plans of the NATO military bloc, which stand in glaring contradiction to the national interests of Germany, this government bears a considerable part of the responsibility for the situation obtaining in Germany, including the fact that Germany still has no peace treaty. If any fresh evidence is needed to prove that the Federal German Republic Government is pursuing precisely this line, this evidence is provided by the note of the Federal German Republic Government sent on January 5, 1959 in reply to the Soviet Government note on the Berlin issue dated November 27, 1958. This note shows that the Federal German Republic Government instead of assisting in the settlement of the Berlin issue in the interests of peace in Europe and in the interests of the German nation itself, is going out of its way to fan the passions and to bring the situation around the Berlin issue to the point of incandescence in order to insure the preservation of the occupational regime in West Berlin.

There can be no justification for such a situation when the states which took part in the war against Hitlerite Germany have to wait and remain passive observers in such a serious and urgent matter as the preparation and conclusion of a peace treaty with Germany. These states, which during the war succeeded in establishing close cooperation between themselves, are now in a position to find a common language despite the existing difference in order to consummate the peaceful settlement with Germany and to insure, at long last, a peaceful and secure life for the European peoples, including the Germans. The necessity to solve this task is all the more urgent since a movement for an earliest preparation and conclusion of a peace treaty is gathering momentum in both German states, the German Democratic Republic and the Federal German Republic.

Proceeding

-4-

Proceeding from the above considerations and desirous in providing a practical basis for a peaceful settlement with Germany, the Soviet Government has drafted a peace treaty and is forwarding it herewith to the Government of the United States for consideration.

Desires to divide the world into victors and vanquished are alien to the Soviet state, just as feelings of revenge toward its former war enemies. The Soviet draft of the peace treaty is based on the idea of Germany's peaceful and democratic development. This draft provides for the reestablishment of the German people's complete sovereignty over Germany, its territory and airspace. No restrictions are clamped down on the development of Germany's peaceful economy, trade, shipping, or access to world markets. Germany is allowed the right to have its national armed forces necessary for the country's defense. All these provisions of the draft give the German people great opportunities for peaceful creative labor and insure them an equal standing among the other nations of the world.

Of course, the draft treaty provides for certain military restrictions, which, the Soviet Government is convinced, conform both to the national interests of the German people who have lived through the havoc of world wars and to the common interests of peace. The military obligations imposed on Germany include, above all, a prohibition to produce nuclear and rocket weapons and to equip the German armed forces with them, which would be conducive to strengthening Europe's security and would eliminate one of the main obstacles now standing between the two German states.

Of great significance for safeguarding peace in Europe is the peace treaty's provision regarding the possibility of Germany's involvement in any military alignment directed against any of the states which were at war with Hitlerite Germany, and whose members do not include all the four principal allied powers of the anti-Hitlerite coalition, the USSR, the United States, Britain, and France. The inclusion of this provision in the treaty would deliver mankind to a considerable extent from the danger of a new war, for no one will deny that this danger is much greater when there is a military alliance of one or several great powers with Germany, an alliance directed against another great power.

Considering

-5-

Considering all the above, the Soviet Government proposes to call within two months a peace conference in Warsaw or Prague to discuss the advanced draft peace treaty with Germany, to work out and sign an agreed text of the treaty. The conference should be attended, on the one hand, by the governments of the states that took part with their armed forces in the war against Germany and, on the other hand, by the Governments of the German Democratic Republic and the Federal German Republic, which would sign the peace treaty on behalf of Germany.

If a German confederation is set up before the peace treaty is concluded, the latter could be signed, in this case, by representatives of the German confederation and also the two German states. It goes without saying that the Soviet Government recognizes the right of the German Democratic Republic and the Federal German Republic Governments to reach agreement on any appropriate German representation during the preparation and signing of the peace treaty.

In advancing the draft peace treaty for Germany, the Soviet Government proceeds from the fact that the positions of the sides concerned in the German question are now absolutely clear and that it is necessary to forego today the endless polemics, to get down to the elaboration of practical decisions dictated by the situation prevailing in Germany and by the interests of strengthening peace in Europe.

The Soviet Government is convinced that only those can remain unsympathetic to the proposal to conclude a peace treaty who do not wish the German people well, who want Germany to remain cleaved, who do wish to turn Europe into a continent of stable peace and security, and those who want it to be, as hitherto, a seat of dangerous tension and cold war fraught with a serious menace to the cause of peace.

The Soviet Government believes that, besides the conclusion of a peace treaty, practical steps can be taken now regarding Berlin, as already proposed by the Soviet Government, particularly in its note to the U. S. Government of November 27, 1958.

Inasmuch as the U. S. Government set forth its views on the aforesaid proposals in its note of December 31, 1958, the Soviet Government deems it necessary to state the following in reply to this note.

The period

-6-

The period when the Allied governments demanded Germany's compliance with the terms of unconditional surrender has long come to be a thing of the past, as well as the time when the supreme power in Germany belonged to the commanders in chief of the occupation troops of the four powers, when the control council still discharged its functions as well as the "Allied Kommandatura" for the joint administration of "greater Berlin," which it headed. However, one gains the impression that the U. S. note has been written pertaining to the first years of Germany's occupation, without any regard for the great changes which have taken place in Germany during the postwar years. It is entirely permeated by the spirit of that time, a desire to justify and confirm the "right to occupation," although the U. S. Government has recognized the abnormality of the situation when, 13 years after the war, Berlin still lives under a system of occupation established in 1945.

No one can give credence to arguments that the stay of American troops in Berlin is justified by the fact that they came there as a result of World War II.

If we are to waive the deep accumulations of the occupation period and to soberly evaluate the situation, it will become clear that the desire of the United States, Britain, and France to preserve their positions in West Berlin has nothing in common with the consequences of the last war and the postwar agreements which determined Germany's development as a peace-loving and democratic state. It seems from the new state of affairs arising from the crass violation of the aforesaid agreements by the western powers that they have abandoned good allied relations and reversed their policy to aggravating relations with the USSR and whipping together military blocs.

Only those who wish to use West Berlin as an instrument of hostile activity against the Soviet Union, the German Democratic Republic and the countries which are their friends, and as an instrument of further aggravating the existing contradictions and increasing international tension, can speak out for the preservation of the present situation in Berlin.

To continue

-7-

To continue the existing situation in West Berlin means to preserve the danger of the cold war turning into a third World War with all the attending grave consequences for the peoples. Under these conditions no one can expect the Soviet Union to prop up the occupation regime in West Berlin with its own hands. The occupation, which was understandable and necessary after the defeat of Hitler Germany inasmuch as it led to the remoulding of German political life on peace-loving and democratic lines, now has the purpose of covering up, above all, the turning of West Berlin into a NATO stronghold in the heart of the German Democratic Republic.

The United States Government note recalls the 1944 and 1945 Allied agreements on Berlin, and what is more, it interprets these agreements in such a way as to make out that they do not depend on the Potsdam agreements and still give the western powers a right to keep their troops in West Berlin. We cannot agree with this interpretation because it is at variance with the generally known facts and the commitments assumed by the powers with regard to Germany.

Berlin's quadripartite status did not originate and exist independently of all the other Allied agreements on Germany, it was wholly intended to fulfill the basic purpose of Germany's occupation in the initial postwar period, purposes laid down in the Potsdam agreements. Having embarked upon the road of rearming West Germany, and drawing it into their military alignments, the United States, Great Britain, and France crassly violated the Potsdam agreement and therefore forfeited all legal rights for the perpetuation of Berlin's present state.

As for Germany's occupation in general, the Soviet Union has always observed and observes its international commitments, including those on Germany. Moreover, no one can reproach the Soviet Union that it did not serve warning when the western powers scrapped one Allied agreement after another, yoking West Germany onto the road of militarism and revanchism.

If the three western powers honored the the Potsdam agreement like the Soviet Union and abided by their agreements under this agreement, we could say with certainty that there would be no Berlin issue now, and no German problem in general, because they would be solved to the benefit of the German people and in the interests of European peace.

The quadripartite

-8-

The quadripartite agreements on Berlin, as well as on Germany as a whole, are of a provisional nature, valid only for the period of Germany's occupation. But the occupation is over. The Soviet Union, the United States, Great Britain, France and other states have announced the ending of the state of war with Germany, in view of this the contentions of the U. S. note about certain rights to continue the occupation are obviously groundless.

In the light of the above facts it is easy to understand that the Soviet Union does not mean a unilateral denunciation of the agreements on Berlin, as the governments of the three western powers are trying to present it, but is only trying to draw a logical conclusion from the prevailing situation, a situation characterized by the ending of Germany's occupation and the gross violation by the western powers of the commitments they assumed at the end of the war.

In its note the U. S. Government declares that the western powers have also obtained their rights in Berlin because they "permitted" the Soviet Union to occupy certain areas of Germany which were taken by the American and British troops in the course of the war. That contention is nothing but crude distortion of facts. It is well known that agreement on the occupation zones was reached during the war when it was difficult to foresee whose troops would reach these zones first.

At the same time it is necessary to recall that when the war ended in Europe there were Soviet troops not only in Germany, but in the territories of many other countries as well, Austria for instance. However, the Soviet Union has never raised the question of compensation for the withdrawal of its troops from these territories nor has it demanded any concessions for the admission of Allied troops into areas occupied by the Soviet forces, Vienna for instance, because to make such claims is tantamount to unseemly bargaining over other nations' territories. It is amazing, therefore that the U. S. Government permits such an approach to a country like Germany.

The U. S. Government declares that it could agree to discuss the Berlin question at broader talks on the solution of the German problem, including the unification of Germany and the question of European security. The Soviet Government has repeatedly pointed out that there cannot be meetings of the four powers to discuss the question of Germany's unification because the issue is outside the competence of the USSR, the United States, Britain, and France.

The four-power

- 9 -

The four-power negotiations on the unity of Germany were quite lawful during the occupation period, when these powers were discharging administrative and control functions in Germany. Now, however, when occupation is a thing of the past and two independent German states have arisen on the territory of Germany, the question of Germany's reunification has become an internal German problem which can be solved only through a rapprochement and agreement between these states.

Regarding the problem of European security, the Soviet Government attaches tremendous importance to its solution. It has repeatedly made proposals for establishing a system of measures to insure European security. Suffice it to recall such proposals as those for concluding a nonaggression agreement between the North Atlantic and Warsaw Treaty member states, for the withdrawal of foreign troops from the territory of Europe, as well as the support by the Soviet Government of the Polish proposal for establishing an atom-free zone in central Europe. The Soviet Government is convinced that the problem of European security calls for a special discussion and cannot be lumped together with other questions including the Berlin issue. Incidentally, the U.S. Government in its note did not say one word about the ways and means of insuring European security as would be acceptable to all states concerned.

Under such circumstances no one can avoid getting the impression that the U.S. Government is obviously trying to hamper agreed decisions on the Berlin question and European security by having the solution of these questions dependent on each other.

The Soviet Government is trying to settle the Berlin issue through negotiations between the states concerned. It is convinced that its proposals for making West Berlin a demilitarized free city provides a sound basis for agreement since it is in line with the general interest of consolidating peace in Europe. At the same time the implementation of the Soviet proposal does not prejudice the prestige or encroach on the security interests of any state, nor does it grant any unilateral advantages to anyone.

It goes without saying that the Soviet Government in no way regards its proposal for a free city of West Berlin as precluding an addenda or amendments. It is willing to consider appropriate

proposals

-10-

proposals on this question advanced by other powers, provided these proposals are directed toward ending the occupation regime in West Berlin and consolidating peace in Europe.

The refusal by the western powers to enter into negotiations with the Soviet Union with a view to normalizing the situation in Berlin naturally will not make the Soviet Union halt halfway towards the goal which has been set by life itself and insures stability of the situation and tranquility in the center of Europe.

No one can prevent the Soviet Union from renouncing its functions regarding Berlin and its communications with West Germany and from settling the questions arising in connection with this through an agreement with the German Democratic Republic.

Summing up the above, the Soviet Government, besides its proposal for convening a peace conference, suggests that the states concerned should discuss the Berlin question as well. If the western powers find it expedient to exchange opinions with the Soviet Government on the contents of the peace treaty prior to the convocation of the peace conference, the Soviet Government would be agreeable. In this case it will be necessary to insure an adequate participation of the German Democratic Republic and the Federal German Republic as states directly interested in the conclusion of a peace treaty with Germany.

The Soviet Government expresses the hope that the U. S. Government will study with due attention the submitted proposals and the draft peace treaty with Germany forwarded herewith and will on its part, exert every effort to enable the peace conference to accomplish its important task successfully.

At the same time the Soviet Government would like to believe that the U. S. Government, recognizing that the preservation of the occupation regime in West Berlin is abnormal, will draw the necessary conclusions from the obtaining situation and will assist in settling the Berlin issue as demanded by the interests of consolidating peace in Europe and throughout the world.

Moscow, January 10, 1959.

(Tass text in English)

- 1 -

January 10, 1959

SOVIET PROPOSED DRAFT PEACE TREATY WITH GERMANY

The Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America, the French Republic, Australia, the People's Republic of Albania, Belgium, the Byelorussian Soviet Socialist Republic, the People's Republic of Bulgaria, Brazil, the Hungarian People's Republic, Greece, Denmark, India, Italy, Canada, the People's Republic of China, Luxembourg, the Netherlands, New Zealand, Norway, Pakistan, the Polish People's Republic, the Rumanian People's Republic, the Ukrainian Soviet Socialist Republic, Finland, the Czechoslovak Republic, the Federal People's Republic of Yugoslavia, and the Union of South Africa, as states which took part with their armed forces in the war against Germany, and hereinafter referred to as "the allied and associated powers," of the one part; and Germany, now represented by the German Democratic Republic and the Federal Republic of Germany -- or in case a German Confederation is set up by the time the peace treaty is signed, the German Confederation, and also the German Democratic Republic and the Federal Republic of Germany -- of the other part;

Noting that there is no further justification for the continuation of the profoundly abnormal situation when 14 years after the ending of hostilities, foreign troops remain in the territory of Germany and the German nation is still deprived of the right to fully exercise its state sovereignty, to maintain equal relations with the other states and is outside the United Nations;

Guided by the desire to implement in the prevailing conditions the principal propositions stipulated by the documents of the anti-Hitlerite coalition and particularly the Potsdam Agreement;

Believing

-2-

Believing that the absence of a peaceful settlement precludes a just approach to the legitimate national interests of the German people and is largely conducive to the aggravation of tension and instability in Europe;

Being unanimous in their intention to finally reckon up the war unleashed by Hitler Germany, the war which has brought incalculable sufferings and calamities to many people, including the German nation;

Admitting that during the years since the ending of hostilities the German people have proved in many ways that they condemn the crimes committed against the peoples of Europe as a result of the aggression unleashed by German militarism;

Fully resolved never to allow Germany to threaten its neighbors or other nations, to unleash a new war;

Desirous of giving Germany an opportunity to develop along peaceful and democratic lines and to cooperate fruitfully with other states as an equal member of the community of nations;

Convinced that the conclusion of a peace treaty would be of exceptionally great significance for insuring Europe's security and the consolidation of world peace;

Holding that the conclusion of a peace treaty with Germany is a necessary and important step toward the restoration of Germany's national unity;

Have decided to conclude the present peace treaty and have therefore appointed the undersigned plenipotentiaries who, after presentation of their credentials, found in good and due form, have agreed on the following provisions:

Part One: Political and Territorial Clauses

1 -- Peace and Peaceful Relations

Article 1: The allied and associated powers, of the one part, and Germany, of the other, declare and confirm the ending of the state of war and the establishment of peaceful relations between them. Furthermore, all the arising political and juridical

-3-

and juridical consequences take effect as of the entry into force of an appropriate statement of declaration by each of the allied and associated powers.

Article 2: Until Germany is reunited in this or another form, the present treaty shall mean by the term "Germany" the two existing German states -- the German Democratic Republic and the Federal Republic of Germany-- and all Germany's rights and obligations stipulated in it shall be equally binding on the German Democratic Republic and the Federal Republic of Germany.

Article 3: The allied and associated powers undertake to recognize the German people's full sovereignty over Germany, including its territorial waters and airspace.

Article 4: 1) The allied and associated powers declare that they will cultivate their relations with Germany on the principles of respect for Germany's sovereignty and territorial integrity, noninterference in its domestic affairs, nonaggression, equality and mutual benefit, and in accordance with the provisions of the present treaty. In its relations with all countries Germany shall be guided by the same principles.

2) Germany commits itself to solve all international disputes only by peaceful means so as not to endanger international peace and security. Germany also pledges to refrain from the threat of force in international relations or its use against the territorial integrity or political independence of any state, and not to give aid or support to any nation or group of nations violating international peace and security.

Article 5: 1) Germany assumes a commitment not to enter any military alliances directed against any of the powers parties to the present treaty, and also not to take part in any military alliances whose membership does not include all the four principal allied powers of the anti-Hitlerite coalition -- the USSR, the United States, the United Kingdom, and France.

2) The allied and associated powers undertake to respect Germany's obligation not to take part in military alliances mentioned in point one and to refrain from any actions with regard to Germany liable to entail a direct or indirect breach of this commitment by it.

3) The allied

- 4 -

3) The allied and associated powers will do everything possible to let Germany take part, on an equal footing, in steps to strengthen all-European security and the establishment of a security system in Europe based on the joint efforts of the European nations.

4) With the entry into force of this treaty Germany-- the German Democratic Republic and the Federal Republic of Germany -- will be freed of the obligations arising from membership in the Warsaw Treaty Organization and the North Atlantic and West European Unions, respectively.

Article 6: Germany undertakes to recognize the full force of the peace treaties with Bulgaria, Hungary, Italy, Rumania, and Finland.

Article 7: After the entry into force of the present treaty, the allied and associated powers will support Germany's application for admittance to the United Nations.

II: -- Frontiers

Article 8: The frontiers of Germany shall be those existing on January 1959. Germany's frontiers are shown on the map appended to the present treaty -- supplement number one. Until Germany is united into one state, the territories of the Germany Democratic Republic and the Federal Republic of Germany are delimited by the line existing on January 1, 1959, as shown on the map appended to the treaty -- supplement number one.

Article 9: In conformity with the Potsdam Agreement of 1945: A) Germany renounces all its rights, legal and other claims to the former German territories east of the line running from the Baltic sea, slightly to the west of Swinemunde, along the river Oder to its confluence with the western Neisse and along the western Neisse to the Czechoslovak frontier, including the territory of former East Prussia and also the territory of the former city of Danzig, which have now passed under sovereignty of the Polish People's Republic, which Germany recognizes.

B) Germany renounces its rights, legal and other claims to the former city of Konigsberg and the adjacent area,
which have

- 5 -

which have passed under the sovereignty of the Union of Soviet Socialist Republics, which Germany recognizes.

Article 10: Germany recognizes as invalid the Munich Agreement with all the consequences arising from it, and declares that it will always recognize the former so-called Sudeten region as an integral part of the national territory of the Czechoslovak Republic.

Article 11: Germany undertakes to recognize that the territory of Alsace Lorraine is a part of the French Republic. The Saar region remains within the territory of Germany.

Article 12: Germany confirms and recognizes the changes and delimitation of its frontiers, effected according to the agreements concluded with the neighboring countries in the period from May 1945 to January 1, 1959.

III: -- Germany and Austria

Article 13:

1) Germany undertakes to recognize the full force of the state treaty establishing an independent and democratic Austria of May 15, 1955, and the prohibition of Anschluss contained in it.

2) In conformity with this, Germany shall respect the sovereignty and independence of Austria and renounces all territorial and political claims to Austria and Austrian territory.

3) Germany undertakes to recognize and pledges to respect the permanent neutrality of Austria as it is laid down by the federal constitutional law of Austria, adopted by the Austrian Parliament on October 26, 1955.

4) To prevent an Anschluss, it is prohibited to conclude any political or economic alliance between Germany and Austria. Germany fully recognizes its responsibility in this question and shall not enter into a political or economic alliance with Austria in any

form whatever.

- 6 -

form whatever.

Germany must not conclude any agreements with Austria, undertake any actions, or carry out any measures directly or indirectly promoting its political and economic alliance with Austria, or jeopardizing the territorial integrity, political or economic independence of Austria.

Germany further pledges not to allow any actions in its territory directly or indirectly promoting such an alliance, and is to preclude the existence, revival, or activity of any organizations pursuing the aim of establishing a political or economic alliance with Austria, or propaganda in favor of an alliance with Austria.

IV: -- Basic Human Rights and Freedoms

Article 14:

1) Germany shall take all measures necessary to secure to all persons under German jurisdiction, without distinction as to race, sex, language, religion, nationality, origin, or political convictions, the enjoyment of human rights and of the fundamental freedoms, including personal freedom, the freedom of expression, of press and publication, of religious worship, or political opinion, of association and political meetings.

2) Germany also undertakes that the laws in force in its territory shall not, either in their content or in their application, discriminate or entail any discrimination between German nationals on the ground of their race, sex, language, religion, nationality, origin, political convictions, or party affiliation, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights, or any other matters.

3) Past membership of any German national to the Nationalist-Socialist Party or organizations

affiliated to it

- 7 -

affiliated to it or under its control, cannot be regarded as a reason for restricting the rights and freedoms stipulated in point one if this is not done on the strength of a court ruling.

4) Persons of German nationality moved to Germany from other countries in conformity with the decisions of the 1945 Potsdam Conference enjoy in the territory of Germany all the rights mentioned in point one without any discrimination as equal German nationals.

Article 15: The German authorities or nationals are prohibited from persecuting any person on the ground that during World War II he acted in favor of the allied and associated powers or expressed sympathy for their cause, as well as on the ground that prior to the entry into force of the present treaty this person committed actions facilitating the fulfillment of the joint decisions of the USSR, the United States, the United Kingdom, and France on Germany or any of the proclamations, injunctions, ordinances, and instructions issued on the strength of these decisions.

V: -- Political Parties and Other Organizations

Article 16: Germany undertakes to insure unhampered activity to political parties and other organizations, with the exception of parties and organizations mentioned in Articles 13, 17 and 18, and to give them the right to manage their internal affairs freely, to hold congresses and meetings, to enjoy freedom of press and publications.

Article 17: Germany undertakes not to allow, under threat of penal punishment, the revival, existence and activity of the National-Socialist Party, organizations affiliated to it or under its control in German territory, including political, military, and paramilitary organizations, as well as the emergence and activity of other similar parties and organizations and, particularly, revanchist parties and organizations demanding a revision of Germany's frontiers or making territorial claims to other states.

Article 18:

CONFIDENTIAL

- 8 -

Article 18: Germany assumes the commitment to dissolve and not to allow, under threat of penal punishment, the existence and activity in its territory of any organizations, including emigrant bodies, which conduct hostile activity against any of the allied and associated powers. Germany shall not grant political asylum to persons affiliated to the aforesaid organizations.

VI: -- Other Clauses

Article 19: Germany undertakes to recognize the ruling of the International War Tribunal in Nuremberg and the rulings of other courts on crimes stipulated by the charter of this tribunal and committed both inside and outside Germany.

Article 20: Germany undertakes not to allow in any form propaganda having the purpose or capable of creating or increasing the threat to peace, violation of peace or act of aggression, including the propaganda of war and also any kind of revanchist statements demanding a revision of the German frontiers or making territorial claims to other countries.

Article 21:

1) Germany undertakes to give all-out support to the repatriation of the nationals of the allied and associated powers who came to be in German territory as a result of the war.

2) For their part the allied and associated powers will render similar assistance, in cases when this has still not been done, to the repatriation of German nationals that come to be in the territories of the allied and associated powers as a result of the war.

3) The allied powers assume the commitment, if it had not been done earlier, to repatriate in six months after the treaty enters into force all German specialists forcibly moved from Germany during the war and after its conclusion. The provisions of this article do not affect persons who left Germany at their own discretion.

Part Two: Clauses on the Reestablishment of the Unity of Germany

Article 22:

- 9 -

Article 22: The allied and associated powers recognize the right of the German people to the restoration of the unity of Germany and express their readiness to render both German states all-out assistance in reaching this goal on the basis of a rapprochement and agreement between the German Democratic Republic and the Federal Republic of Germany.

Both German states, as well as the allied and associated powers, regard this treaty as an important contribution to the cause of the reunification of Germany in accordance with the national aspirations of the German people and with the interests of insuring security in Europe and throughout the world.

Article 23: In view of the fact that any attempt to settle the question of the reunification of Germany by means of force would be fraught with the danger of war, entailing incalculable calamities for the people of Europe, and for the German people in the first place, the German Democratic Republic and the Federal Republic of Germany solemnly undertake never to resort to force or to threat of force for achieving unification of Germany and will settle by peaceful means any disputes that may arise in the relations between them.

Article 24: After the restoration of Germany's unity the present treaty shall remain in force and its provisions shall apply to the united German state.

Article 25: Pending the restoration of Germany's unity and establishment of a united German state, West Berlin shall have the standing of a demilitarized free city with its special status.

Part Three: Military Clauses

Article 26: Germany shall have its national armed forces--land, air, and naval--necessary for the defense of the country.

Article 27: The following shall not be permitted to serve in the German armed forces: A) Persons convicted by the courts of the countries which were at war with Germany or by German

courts for their

- 10 -

courts for their crimes against peace, humanity, and for war crimes;

B) Persons who are not German nationals;

C) Persons not of German nationality who found themselves on the territory of Germany during or after the end of the war, irrespective of whether or not they subsequently became German citizens.

Article 28: Germany shall not have, produce, acquire, or experiment with:

A) Any types of nuclear weapons or other means of mass destruction, including biological and chemical weapons;

B) Any types of rockets and guided missiles, as well as apparatuses and installations necessary for their launching or guiding;

C) Aircraft designed mainly as bombers with bombs and shell racks;

D) Submarines.

Article 29: Germany shall not have, produce, or acquire, either publicly or privately or in any other way, war materials and equipment or maintain production facilities for their manufacture in excess of the quantity necessary for equipping armed forces permitted by Article 26 of the present treaty, nor shall it export from the territory to other countries any war materials and equipment.

Article 30: All foreign troops now stationed in Germany are to be withdrawn from Germany not later than within one year after the coming into force of the present treaty.

Or: After the coming into force of the present treaty, all foreign troops stationed in Germany shall be withdrawn from Germany within time limits to be agreed upon by the parties concerned so that within 6 months from the coming into force of the

treaty the

- 11 -

treaty the numerical strength of foreign troops stationed on German territory shall be reduced one third.

Simultaneously with the withdrawal of foreign troops from Germany all foreign war bases on German territory shall be closed down. In the future, Germany shall not permit the stationing of any foreign armed forces or the siting of foreign war bases on its territory.

Article 31: Germany undertakes to respect, preserve, and maintain the graves on German territory of the soldiers, prisoners of war, and nationals forcibly brought to Germany of the powers which were at war with Germany; the memorials and emblems on these graves; and the memorials to the military glory of the armies which fought against Hitlerite Germany.

The allied and associated powers undertake on their part to insure the maintenance of the marked graves of German soldiers on their territories.

Part Four: Economic Clauses

Article 32: No restrictions shall be imposed on Germany in the development of its peaceful economy which is to promote the welfare of the German people. Nor shall Germany be in any way restricted regarding its trade with other countries, navigation and access to world markets.

Article 33: After the withdrawal of foreign troops from German territory any German property which is being used by the armed forces of foreign states on the territory of Germany and for which no compensation has been paid shall be restored to its owners or adequate compensation shall be paid.

Article 34:

1) Insofar as such action had not already been taken, Germany shall restore all legal rights and interests in Germany of the allied and associated powers and their nationals as they existed on September 1, 1939, and for the Czechoslovak Republic and its citizens, on September 30, 1938, and return all property of the allied and associated

powers and their

- 12 -

powers and their nationals or pay compensation for it. The order and terms of the implementation of the provisions of the present article shall be determined by special agreements between Germany and the states concerned.

"Property" means movable or immovable property, whether tangible or intangible, including industrial, literary, and artistic property, as well as all rights and interests of any kind of property.

2) The existence of the state of war in itself shall not be regarded as affecting the obligation to pay pecuniary debts arising out of the obligations and contracts that existed prior to the state of war.

3) Germany undertakes to permit no discrimination regarding the satisfaction of claims to compensation for the damage sustained by nationals of the allied and associated powers, irrespective of the nature of the due compensation or of the organization or institution which is to satisfy the claim.

Article 35: Germany shall recognize the rights of any allied or associated power to German assets in other countries transferred to this power on the strength of agreements between the USSR, the United States, the United Kingdom, and France.

Germany shall recognize the decisions regarding the German assets in Austria as contained in the state treaty of the reestablishment of an independent and democratic Austria.

Article 36:

1) Germany waives all claims of any description against the allied and associated powers, their organizations and nationals on behalf of Germany, German organizations and nationals, claims arising directly out of the war or out of the actions taken because of the existence of a state of war in Europe after September 1, 1939, whether or not such an allied or an associated power was at war with Germany at the time.

This renunciation

- 13 -

This renunciation of claims includes the following:

- A) Claims for losses or damages sustained as a consequence of acts of the armed forces or authorities of the allied or associated powers;
- B) Claims arising from the presence, operations, or actions of the armed forces or authorities of the allied or associated powers in German territory;
- C) Claims with respect to the decrees or orders of prize courts of the allied or associated powers, Germany agreeing to accept as valid and binding all decrees of such prize courts after September 1, 1939 concerning German seagoing or river vessels or German goods or concerning the payment of costs;
- D) Claims arising out of the exercise or purported exercise of belligerent rights.

2) The waiving of claims by Germany under paragraph one of this article includes any claims arising out of the actions taken by any of the allied or associated powers with respect to German seagoing or river vessels after September 1, 1939, as well as any claims and debts arising out of the conventions on prisoners of war now in force.

3) The provisions of this article shall bar completely and finally all claims of the nature referred to herein, which shall henceforward be extinguished, whoever may be the parties in interest. The German government agrees to make equitable compensation in marks to persons who furnished supplies or services on requisition to the forces of allied or associated powers in German territory and in satisfaction of noncombat damage claims against the forces of the allied or associated powers arising in German territory.

Article 37: Germany likewise waives all public claims, all the claims of German public juridical persons, the claims of

German private

- 14 -

German private juridical persons and German nationals regarding the territories which were returned to other states and placed under their jurisdiction.

Article 38: The states which now have under their jurisdiction a part of the former German territory bear no responsibility for the obligations arising out of the debts of the German state, German municipalities, and German public institutions, or for any other public juridical and private juridical questions which arose prior to May 8, 1945 and are connected with this territory.

Article 39:

1) Germany agrees to enter into negotiations with any allied or associated powers and conclude treaties or agreements on trade and shipping, granting every allied and associated power most favored nation treatment on a reciprocal basis.

2) Germany shall not permit any discrimination or artificial restrictions in anything that concerns its trade with allied and associated powers. The allied and associated powers on their part shall adhere to the same principle in their trade with Germany.

3) Germany shall not grant any exclusive or discriminatory right to any country with regard to the use of commercial aircraft for international communications within Germany's boundaries; Germany shall grant the allied and associated powers, on a reciprocal basis, equal possibilities in obtaining rights in German territory in the sphere of international commercial aviation, including the right to land for refuelling and repairs. These provisions should not affect the interests of the national defense of Germany.

Article 40: Germany undertakes to grant Austria the right of free transit and communications without levying custom duties and tariffs between Salzburg and Lofer (Salzburg) via Reichenhall-Steinpass and between Scharnitz (Tyrol) and Ehrwald

(Tyrol) via

- 15 -

(Tyrol) via Garmisch-Partenkirchen.

Part Five: Reparations and Restitutions

Article 41: The question of the payment of reparations by Germany in compensation for the damage it inflicted on the allied and associated powers during the war is regarded as fully settled and the allied and associated powers waive any claim against Germany regarding further reparation payments.

Article 42: Insofar as Germany had not already done so, Germany undertakes to return in good order all the objects of artistic, historical or archeological value which constitute part of the cultural assets of the allied and associated powers and were forcibly or under coercion transported from their territories to Germany. Claims for restitution of the above-mentioned objects can be presented within 12 months from the coming into force of the present treaty.

Germany shall also transfer to the states of which parts of former German territory were returned or placed under their jurisdiction all historical, juridical, administrative and technical archives, together with maps and plans concerning these territories.

Part Six: Final Clauses

Article 43: With the coming into force of the present peace treaty Germany shall be freed of all obligations under international treaties and agreements which were concluded by the Government of the German Democratic Republic and the Government of the Federal Republic of Germany prior to the coming into force of the present treaty and which stand in contradiction to the provisions of the peace treaty.

Article 44: Any dispute concerning the interpretation of execution of the treaty which is not settled by direct diplomatic negotiations or in any other way by agreement between the parties to the dispute shall be referred to a commission composed of representatives of the Soviet Union, the United Kingdom, the United States, France, the German Democratic Republic, the Federal

Republic of Germany.

- 16 -

Republic of Germany. Any such dispute not resolved by the commission for the settlement of this dispute within a period of two months shall, unless the parties to the dispute mutually agree upon another means of settlement, be referred to a commission composed of one representative of each party and a third member selected by mutual agreement of the two parties from nationals of a third country.

Article 45:

1) The present treaty shall be ratified and come into force immediately upon the deposit of instruments of ratification by the Union of Soviet Socialist Republics, by the United Kingdom of Great Britain and Northern Ireland, by the United States of America, by France and Germany. With respect to every country which will subsequently ratify the present treaty or accede to it, the treaty will come into force upon the deposit of instruments of ratification or accession by this state.

2) If the treaty does not come into force within 10 months after the date of deposit of Germany's instruments of ratification, any state which has ratified it may enforce the treaty between itself and Germany by notifying thereof Germany and the depositary state within three years from the deposit of instruments of ratification by Germany.

Article 46: Any state which was at war with Germany and is not a signatory to the present treaty may accede to the treaty.

Article 47: The treaty will grant no legal or other rights or advantages to states which will not be signatories to the present treaty and no legal or other rights or interests of Germany shall be regarded as infringed by any provisions of the present treaty in favor of such states.

Article 48: The present treaty, as well as all instruments of ratification and accession shall be deposited with the Government of _____ which shall furnish certified copies to each of the signatory or acceding states and will inform these states of all further ratification and accessions.

In faith whereof

- 17 -

In faith whereof the undersigned plenipotentiaries have signed the present treaty and have affixed thereto their seals.

Done in _____
in the Russian, English, French and German languages with all texts being equally authentic.

(TASS text in English)

MEMORANDUM FOR: Mr. Dulles

A copy each of this material has been sent to DD/I and DD/P for information. I'm also showing a copy to General Cabell.

OK
AWD/Free

Noted by
17 Jan 59



15 Jan 59
(DATE)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

(47)

STAT